

sweepstakes of two sovereigns each with fifteen sovereigns added, which race the plaintiff won, and it was held not to shew that the money was received to abide the event of an illegal game or match within these Statutes.

The Statute of Charles, it was held in the same case, does not make all gaming illegal, but only fraudulent or excessive gaming. The second section of that Statute applies to fraudulent gaming, but the fraud, ill practices, &c. mentioned in it, are intended to apply to all that follows in that section, and the clause has no reference to cases of persons fairly running horses for money, or fairly betting on races. The third section applies to excessive or immoderate gaming, whereby over 100*l.* are lost at any one sitting or time upon credit. The object of the second section of the Statute of Anne was to reduce the sum of 100*l.* to 10*l.* Accordingly, playing or betting to an amount exceeding the sum or value of 10*l.* is *excessive gaming*, and is so defined by the Statute. But otherwise, though the games within the Statute of Anne are the same as those within the Statute of Charles, they are not absolutely prohibited; and the objection of illegality must, in general, be specially pleaded.

The first section of the Act of 1842, ch. 190, (which in its tenth section repealed all Acts of Assembly theretofore passed for the purpose of **480** suppressing gaming,) enacted, \*that it should not be lawful to keep a gambling table, and made the offence a misdemeanor; and the second section made the keeping of a gaming house a misdemeanor. The third section provided, that every one, who should bet or wager, directly or indirectly, money or any other thing at any of the gaming tables prohibited by the Act, should be guilty of a misdemeanor, and for such offence should pay a fine of twenty dollars, and each bet or wager should be considered a separate offence. The fourth section provided, that every Faro Table, E. O. table, Equality, or any other kind of gaming table (Billiard table excepted), at which the game faro, equality, or any other game of chance should be played, for money or any other thing, should be deemed a gaming table within the Act. This latter section is copied into the Code, Art. 30, sec. 57,<sup>11</sup> and the *keeping* of gaming tables is prohibited by secs. 56, 58, 59 and 60,<sup>12</sup> (as to the

<sup>11</sup> Code 1904, Art. 27, sec. 200.

<sup>12</sup> **Gaming on horse races.**—Code 1904, Art. 27, secs. 199, 201 and 208 and 209 (as now amended). It was held in *James v. State*, 63 Md. 242, that the selling of pools on horse races and the keeping of rooms where such pools were sold did not constitute an offence within the meaning of the above sections and also of sec. 62, (Code 1904, Art. 27, sec. 211). But under the present law, (Code 1904, Art. 27, secs. 202-207; and Act 1906, ch. 127), gambling, pool selling, or book making on horse races is a misdemeanor except in the cases therein especially provided for. *Stearns v. State*, 81 Md. 341; *State v. Dycer*, 85 Md. 246; *Spies v. Rosenstock*, 87 Md. 14.

Gaming on horse races, however, is within both the Statute of Charles and the Statute of Anne. *Woolf v. Hamilton*, (1898) 2 Q. B. 338; *Tollett v. Thomas*, L. R. 6 Q. B. 514. It is unlawful both under these Statutes